

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JOHN PALKA

LORRAINE V. PALKA

Claim No. CU-3700

Decision No. CU -1267

Under the International Claims Settlement
Act of 1949, as amended

Counsel for claimants:

H. G. Hachmann, Esq.

PROPOSED DECISION

This claim against the Government of Cuba, filed under Title V of the International Claims Settlement Act of 1949, as amended, in the amount of \$16,500.00 was presented by JOHN PALKA and LORRAINE V. PALKA and is based upon the asserted ownership and loss of personal property. Claimants, JOHN PALKA and LORRAINE V. PALKA, have been nationals of the United States since their respective births in the United States.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964) 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimants contend that they resided at Avenida No. 51, Arroyo Arenas, Havana, Cuba; that they returned to the United States in July 1960, leaving behind their household and personal effects, including a 1957 Chrysler sedan; and that they have never since returned to Cuba.

In support of their contentions, claimants have submitted invoices, correspondence with the Arista Trading Co., a certificate filed by the claimants on August 23, 1957 with the Cuban Consulate General in New York, a letter from Marsh & McLennan dated July 16, 1959, canceled checks, and claimants' own letters and statements (including detailed inventories).

On December 6, 1961, the Cuban Government published its Law 989 (Official Gazette, XXIII, No. 237, p. 23705) which confiscated all assets, personal property and real estate, rights, shares, stocks, bonds and securities of persons who had left the country. (See the Claim of Wallace Tabor and Catherine Tabor, FCSC Claim No. CU-0109) As the record shows, claimants resided outside of Cuba at that time.

Based upon the entire record, the Commission finds that claimants, JOHN PALKA and LORRAINE V. PALKA, were the owners, in equal parts, of certain personal property, including household and personal effects

and a 1957 Chrysler sedan, located at Avenida No. 51, Arroyo Arenas, Havana, Cuba. The Commission finds, in the absence of evidence to the contrary, that the subject personal property was taken by the Government of Cuba on December 6, 1961, pursuant to the provisions of Law 989.

Upon consideration of the entire record, including the Commission's independent investigation, the Commission finds that at the time of loss, the automobile had a value of \$1,150.00 and that household furnishing and personal effects had a value of \$8,850.00 for a total value of \$10,000.00. Accordingly, the Commission concludes that claimants, JOHN PALKA and LORRAINE V. PALKA, each suffered a loss in the amount of \$5,000.00 within the meaning of Title V of the Act.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (See the Claim of Lisle Corporation, FCSC Claim No. CU-0644).

Accordingly, the Commission concludes that the amount of the loss sustained by claimants shall be increased by interest thereon at the rate of 6% per annum from December 6, 1961, the date on which the loss occurred, to the date on which provisions are made for the settlement thereof.

CERTIFICATION OF LOSS

The Commission certifies that JOHN PALKA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Thousand Dollars (\$5,000.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement; and

The Commission certifies that LORRAINE V. PALKA suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Five Thousand Dollars (\$5,000.00) with interest thereon at 6% per annum from December 6, 1961, to the date of settlement.

Dated at Washington, D. C.,
and entered as the Proposed
Decision of the Commission

FEB 14 1968

This is a true and correct copy of the decision
of the Commission which was entered as the final
decision on MAR 18 1968

Edward D. Re
Edward D. Re, Chairman
Theodore Jaffe
Theodore Jaffe, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)